Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

February 22, 2008

In the Matter of Intercall, Inc.'s Request for Review of a Decision by the Universal Service Administrative Company and	CC Docket Nos. 96-45

COMMENTS OF CANOPCO, INC. (U.S.)

On behalf of Canopco, Inc. (U.S.) ("Canopco"), we have prepared this correspondence in response to Federal Communications Commission ("FCC") Public Notice DA 08-371 (Release Date: February 14, 2008), requesting comment on Intercall, Inc.'s ("Intercall") request for review of a recent decision by the Universal Service Administrative Company ("USAC") and petition for stay.

Under the direction of the FCC, the National Exchange Carriers Association ("NECA") administers the Universal Service Fund ("USF" or the "Fund"), which is a cost allocation mechanism designed to keep local exchange rates at reasonable levels, especially in "high cost" (i.e., rural) areas. NECA administers the program by collecting USF data, determining Local Exchange Carrier ("LEC") eligibility, billing the Interexchanage Carriers ("IXCs") (i.e., long distance telecommunications service providers), and distributing payments. The original goal of the USF was to provide at least one access line for basic telephone service to every household in the U.S., and at a reasonable, subsidized cost. The fund gets money from a surcharge imposed on phone line charges, and uses those funds to offset operating costs of telecommunications in high-cost areas.[1]

Intercall, a provider of audio bridging (teleconferencing) services, has been notified by the USAC, the United States Government agency that administers the USF, that it owes the federal government 11% of its annual conference call revenues in fees. Intercall has challenged the USAC claim. On February 1, 2008, Intercall filed a request seeking review and reversal of the decision of the USAC, in which USAC ruled that Intercall's audio bridging services are toll teleconferencing services (requiring Intercall to submit FCC Form 499 filings to USAC).[2] On February 5, 2008, Intercall filed a petition requesting that the Commission stay USAC's decision pending the Commission's review.[3]

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[1] Newton, H. (2003). *Newton's Telecom Dictionary*. San Fransico, CA: CMP Books.

[2] Request for Review of Intercall, Inc. of Decision of Universal Service Administrator, CC Docket No. 96-45 (filed Feb. 1, 2008).

[3] Intercall, Inc.'s Petition for Stay for the Decision of the Universal Service Administrative Company, CC Docket No. 96-45 (filed Feb. 5, 2008).

Globalive Communications Corp., headquartered in Toronto, Ontario, Canada, is a provider of enhanced telecommunications services to a wide variety of customers. Globalive Communications, Inc. (U.S.) is a 100% owned U.S. subsidiary of Globalive Communications Corp. Canopco is, in turn, a 100% owned subsidiary of Globalive Communications, Inc. (U.S.).

In the United States, Canopco offers conferencing services, primarily on a resale basis. Canopco provides bridging services (not telecommunication transmission services). Cincinatti Bell is the primary supplier of telecommunications transmission services to Canopco. Cincinatti Bell collects the USF from Canopco as a separate line item invoiced to Canopco. Teleconferencing lets customers conduct business efficiently and affordably, allowing call participants to collaborate with more people, increase productivity, capitalize on timely opportunities, and reduce travel expenses.

The statutory framework established by Congress in the Telecommunications Act of 1996 (the "Act") governs the assessment of contributions to the Fund.[4] Section 254(b) of the Act instructs the Commission to establish telecommunications services to all Americans.[5] Section 254(d) of the Act mandates that "every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and

[4] Telecommunications Act of 1996, Pub.L.No. 104-104, 110 Stat. 56 (1996) Act amended the Communications Act of 1934 (the Act). See 47 U.S.C. § § 151, et seq.
[5] 47 U.S.C. § 254(b).

sufficient mechanisms established by the Commission to preserve and advance universal service."[6] The regulations clearly define "contributors" as carriers that provide interstate telecommunications services.

Since the inception of the USF, stand alone providers of audio bridging services have not been classified as telecommunications service providers and have not filed FCC Form 499s as direct contributors to the Fund. Instead, the audio bridging industry has contributed to USF as end users, paying substantial amounts to the IXCs who provide them with the toll-free services customers use to connect to the audio bridge.

It is our understanding that the FCC, which is ultimately responsible for deciding who pays and who doesn't pay into the USF:

1) Determined, in a 5-0 vote of the Commissioners in October 2007, that conference call providers are exempt because conference call providers are end users, not carriers, under local exchange carrier access tariffs, and,
2) Subsequently, formally ruled that CSPs (Competiive Service Providers) are end users of telecom services and not telecom carriers.[7]

The determination and subsequent ruling are consistent with the way CSPs have considered themselves and operated for approximately twenty years.

[6] 47 U.S.C. § 254(d).
[7] *Qwest Communications Corp. v. Farmers and Merchants Mutual Tel. Co.*, Order, 22 FCC Rcd 17973 (2007).

Furthermore, the determination and ruling are consistent with the FCC's rules and regulations, which exclude bridging services from examples of "interstate telecommunications" services provided by entities that would require such entities to provide contributions to the USF.[8]

The USAC's recent decision upends precedent and appears to be based solely on a misinterpretation of Instruction to the FCC form 499-A.[9] Providers of audio bridging services already buy 800 services as end users and pay the USF surcharge on that purchase. The logic applied by the FCC is that this method adequately captures the telecom component used as an input to the service, and that it is much more efficient to collect the support through the carrier than from hundreds of small CSPs.

Canopco does not own its own transmission facilities and does not offer transmission services to its customers. Thus, Canopco's teleconferencing services are clearly not within the definition of "interstate communication services" as prescribed in Sec. 254(d). Instead, the company purchases transmission services from other telecommunications carriers as an end user. Canopco and Intercall appropriately contribute to the Fund by paying end user USF surcharges assessed by interstate telecommunications carriers.

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[8] Regulation 47 CFR Ch.1 (10-1-07 Edition) § 54.707, interpreted from *In the Matter of Federal-State Joint Board of Universal Service*, FCC 97-157, paragraph 780, May 7, 1997.
[9] Gold, E. (2008). *Electronic Telespan* Volume 28, Number 5. Altadena, CA: TeleSpan Publishing Corporation.

For the foregoing reasons, the Commission should grant Intercall's request for review the USAC's decision and petition for stay and ultimately reverse the USAC's decision.

Respectfully submitted,

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